

## CALIFORNIA COASTAL COMMISSION

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February 4, 2009

TO: Coastal Commissioners and Interested Persons

FROM: Legal Division and Legislative Unit

SUBJECT: **2008 Chaptered Legislation**

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The 2008 California Legislative session produced two pieces of chaptered legislation that directly amended the Coastal Act. AB 1338 and SB 1498 took effect January 1, 2009. The Coastal Act has been amended and reprinted to reflect these recent amendments, which are detailed below.

### **A. COASTAL ACT AMENDMENTS**

#### **1) AB 1338 (Committee on Budget) Public Resources, Chapter 760**

The relevant portion of this bill amends Section 30620 of the Coastal Act and adds section 30620.1 to the Coastal Act, creating the Coastal Act Services Fund, and authorizing the Commission to deposit all permit fees into this account. Funds accruing in this account, upon appropriation by the Legislature, may be expended to enforce and implement the Coastal Act. \$500,000 of these funds will be allocated to the State Coastal Conservancy.

#### **Section 30620**

Section 30620 of the Public Resources Code is amended to read:

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, all of the following:

(1) Application and appeal forms.

(2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to ensure that a preliminary review of that action for conformity with this chapter can be made.

(3) Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the certification of local coastal programs. However, the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of those procedures to each local government within the coastal zone and make them readily

available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines that the commission determines to be necessary to better carry out the purposes of this division.

(c) (1) The commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission.

(2) Any coastal development permit fees collected by the commission under paragraph (1) shall be deposited in the ~~Coastal Access Account, which is hereby created in the State Coastal Conservancy Fund. The money in the account shall be available, upon appropriation by the Legislature in the annual Budget Act, to the State Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea, as defined in Section 30115. Any grant funds that are not expended for those purposes shall revert to the account. Nothing in this paragraph authorizes an increase in fees or creates any new authority on the part of the commission~~ Coastal Act Services Fund established pursuant to Section 30620.1. This paragraph does not authorize an increase in fees or create any new authority on the part of the commission.

(d) With respect to an appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from a person other than a member of the commission or a public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

### **Section 30620.1**

Section 30620.1 is added to the Public Resources Code, to read:

30620.1. (a) The Coastal Act Services Fund is hereby created in the State Treasury, to be administered by the commission. The moneys in the fund, upon appropriation by the Legislature in the annual Budget Act, shall be expended by the commission in accordance with this chapter to enforce the California Coastal Act and to provide services to local government, permit applicants, public agencies, and the public participating in the implementation of this division.

(b) Five hundred thousand dollars (\$500,000), adjusted annually by the application of the California Consumer Price Index for Urban Consumers as determined by the Department of Industrial Relations pursuant to Section 2212 of the Revenue and Taxation Code, shall be transferred annually from the Coastal Act Services Fund to the Coastal Access Account established pursuant to Section 30620.2.

**Implementation:** As of January 1, 2009, any permit fees collected by the Commission accruing in excess of \$500,000 shall be deposited in the new fund, and available to the Commission following appropriation by the Legislature. The Conservancy will continue to receive permit fees up to the total amount of \$500,000.

## **2) SB 1498 (Judiciary Committee) Code Maintenance, Chapter 179**

The legislature made some technical corrections to sections 30253, 30327.5, and 30327.6. The subsections in 30253 are now identified by letter rather than by number. The changes to 30327.5 and 30327.6 make grammatical changes. The text below shows changes in strikeout and underline:

### **Section 30253**

New development shall do all of the following:

- ~~(4)~~ (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- ~~(2)~~ (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- ~~(3)~~ (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources ~~Control~~ Board as to each particular development.
- ~~(4)~~ (d) Minimize energy consumption and vehicle miles traveled.
- ~~(5)~~ (e) Where appropriate, protect special communities and neighborhoods ~~which~~ that, because of their unique characteristics, are popular visitor destination points for recreational uses.

### **Section 30327.5**

- (a) An interested person shall not give, convey, or make available gifts aggregating more than ten dollars (\$10) in a calendar month to a commissioner or a member of the commission's staff.
- (b) A commissioner or member of the commission's staff shall not accept gifts aggregating more than ten dollars (\$10) in a calendar month from an interested person.
- (c) For purposes of this section, "interested person" shall have the same meaning as the term is defined in Section 30323.
- (d) For purposes of this section, "gift" means, except as provided in subdivision (e), a payment, as defined in Section 82044 of the Government Code, that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. A person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of

consideration has the burden of proving that the consideration received is of equal or greater value.

(e) For purposes of this section, "gift" does not include any of the following:

(1) A gift that is not used and that, within 30 days after receipt, is either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(2) A gift from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of one of those individuals. However, a gift from one of those people shall be considered a gift if the donor is acting as an agent or intermediary for a person not covered in this paragraph.

(3) A cost associated with the provision of evidentiary material provided to the commission and its staff.

(4) An educational or training activity that has received prior approval from the commission.

(5) A field trip or site inspection that is made available on equal terms and conditions to all commissioners and appropriate staff.

(6) A reception or purely social event that is not offered in connection with or is not intended to influence a decision or action of the commission and that is open to all commissioners, members of the staff, and members of the public and press.

### **Section 30327.6**

(a) (1) Except as provided in paragraph (2), a person who for compensation attempts to influence or affect the outcome of a commission decision or action and who violates Section 30327.5 may, in addition to any other applicable penalty, be barred from any activity seeking to influence or affect the outcome of a commission decision or action for a period of up to one year from the date of the finding of the violation. Each violation shall be grounds for the person being barred from any activity seeking to influence or affect a commission decision or action for an additional year from the date of conviction.

(2) This section does not prohibit an individual from representing himself or herself in seeking to influence or affect the outcome of a commission decision or action if that individual is acting solely on his or her own personal behalf and not on behalf of another person or entity.

(b) A person who violates Section 30327.5 shall, in addition to any other applicable penalty, be subject to a civil fine not to exceed five hundred dollars (\$500) for each violation.